

UNITED STATES BANKRUPTCY COURT
SOUTHERN DISTRICT OF OHIO
EASTERN DIVISION

In re: :
:
Jeremy M. Harper : Case No.: 23-51127
Lisa M. Harper : Chapter 7
Debtor(s). : Judge Mina Nami Khorrami
*:*****:
:
:

**MOTION OF VANDERBILT MORTGAGE AND FINANCE, INC. FOR RELIEF FROM
THE AUTOMATIC STAY REGARDING THE PERSONAL PROPERTY KNOWN AS
2017 CLAYTON 22ANV16763AH17, SERIAL NO. CLM101312TN**

Vanderbilt Mortgage and Finance, Inc. (the "Creditor"), by and through the undersigned counsel, files this Motion for Relief from the Automatic Stay pursuant to 11 U.S.C. § 362 and other sections of Title 11 of the United States Code, and under Federal Rules of Bankruptcy Procedure 4001 and 6007 for an order conditioning, modifying, annulling, or dissolving the automatic stay, averring as follows.

MEMORANDUM IN SUPPORT

1. The Court has jurisdiction over this matter under 28 U.S.C §§ 157 and 1334. This is a core proceeding under 28 U.S.C. § 157(b)(2). The venue of this case and this Motion is proper under 28 U.S.C. §§ 1408 and 1409.
2. On or about April 6, 2017, Jeremy M Harper and Lisa M Harper (the "Debtor") obtained a loan from Vanderbilt Mortgage and Finance, Inc., or its predecessor-in-interest, in the amount of \$66,089.32 for the purchase of a 2017 Clayton 22ANV16763AH17, Serial No. CLM101312TN ("Collateral"). Debtor agreed to make periodic payments to Vanderbilt Mortgage and Finance, Inc., or its predecessor-in-interest. Such loan was evidenced by a

Consumer Loan Note and Security Agreement (the "Contract"), a copy of which is attached hereto as Exhibit A.

3. To secure payment of the Contract, Creditor or Creditor's predecessor-in-interest properly perfected its security interest in the Collateral via notation on the Ohio Certificate of Title (the "Title") pursuant to ORC § 4505.13. A copy of the Title is attached hereto as Exhibit B.
4. Creditor believes the value of the Collateral to be \$43,200.00 based upon Debtor's Schedule A/B, a copy of which is attached hereto as Exhibit C.
5. On April 5, 2023, Debtor filed a voluntary petition for relief under Chapter 7 of the United States Bankruptcy Code ("Petition").
6. The Statement of Intention provides for the surrender of the Collateral.
7. As of April 14, 2023, Debtor is in default in performance of the terms and conditions of the Contract and is contractually due for the January 1, 2023 though April 1, 2023 payments in the monthly amount of \$724.34 for a total delinquency of \$2,897.36.
8. As of April 14, 2023, there is currently due and owing on the Contract the outstanding principal balance of \$60,858.25, plus interest accruing thereon at the rate of 10.150% per annum.
9. Creditor seeks relief from the automatic stay pursuant to 11 U.S.C. § 362(d) to proceed under applicable nonbankruptcy law to enforce its remedies to repossess and sell the Collateral.
10. Creditor is entitled to relief from the automatic stay for the following reason(s):
 - a. Debtor filed a Statement of Intention that indicates that Debtor intends to surrender the Collateral.
 - b. Creditor lacks adequate protection of its secured interest in the Collateral pursuant to 11 USC § 362(d)(1) as a result of Debtor's failure to make payments when due.

WHEREFORE, Vanderbilt Mortgage and Finance, Inc. respectfully requests this Honorable Court to enter an order terminating the Automatic stay as it affects the interests of Vanderbilt Mortgage and Finance, Inc. in the Collateral, and granting such other relief as this Honorable Court may deem just.

Respectfully submitted,

/s/Stephen R. Franks

Edward H. Cahill (0088985)
Adam B. Hall (0088234)
Stephen R. Franks (0075345)
Steven H. Patterson (073452)
Manley Deas Kochalski LLC
P.O. Box 165028
Columbus, OH 43216-5028
Telephone: 614-220-5611
Fax: 614-627-8181
Attorneys for Creditor
The case attorney for this file is Edward H. Cahill.
Contact email is ehc@manleydeas.com

CERTIFICATE OF SERVICE

I hereby certify a copy of the foregoing Motion of Vanderbilt Mortgage and Finance, Inc. for Relief from the Automatic Stay regarding the Personal Property known as 2017 Clayton 22ANV16763AH17, Serial No. CLM101312TN was served electronically on the date of filing through the Court's ECF System on all ECF participants registered in this case at the email address registered with the court on 04/21/2023 addressed to:

Office of U.S. Trustee, Party of Interest, (Registered address)@usdoj.gov

David M. Whittaker, Two Miranova Place, Suite 700, Columbus, OH 43215,
dwhittaker@bricker.com

Crystal I Zellar, Attorney for Jeremy M. Harper and Lisa M. Harper, Zellar & Zellar, Attorneys at Law, Inc., 720 Market St, Zanesville, OH 43701, mail@zellarlaw.com

I certify that on 04/21/2023, a copy of the foregoing document was sent by U.S. Mail to the following:

Jeremy M. Harper and Lisa M. Harper, 14734 Brushy Fork Rd SE, Newark, OH 43056

/s/Stephen R. Franks

NOTICE OF MOTION

Vanderbilt Mortgage and Finance, Inc. has filed papers with the court to obtain relief from stay.

Your rights may be affected. You should read these papers carefully and discuss them with your attorney, if you have one in this bankruptcy case. If you do not have an attorney, you may wish to consult one.

If you do not want the court to grant the relief sought in the motion, then on or before **twenty-one (21) days from the date set forth in the certificate of service for the motion**, you must file with the court a response explaining your position by mailing your response by regular U.S. Mail to:

Clerk of the United States Bankruptcy Court
170 North High Street
Columbus, OH 43215

OR your attorney must file a response using the court's ECF system.

The court must **receive** your response on or before the above date.

You must also send a copy of your response either by 1) the court's ECF System or by 2) regular U.S. Mail to:

Manley Deas Kochalski LLC, Attention: Edward H. Cahill, P.O. Box 165028 Columbus, OH 43216-5028

Office of U.S. Trustee, Party of Interest, (Registered address)@usdoj.gov

David M. Whittaker, Two Miranova Place, Suite 700, Columbus, OH 43215
dwhittaker@bricker.com

Crystal I Zellar, Attorney for Jeremy M. Harper and Lisa M. Harper, Zellar & Zellar, Attorneys at Law, Inc., 720 Market St, Zanesville, OH 43701
mail@zellarlaw.com

Jeremy M. Harper and Lisa M. Harper, 14734 Brushy Fork Rd SE, Newark, OH 43056

If you or your attorney do not take these steps, the court may decide that you do not oppose the relief sought in the motion and may enter an order granting that relief without further hearing or notice.